

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

ANTHONY N. POTENZA,

Plaintiff,

v.

**NOTICE OF REMOVAL**

Civil Action No. \_\_\_\_\_

DANIEL GONZALES,

Defendant.

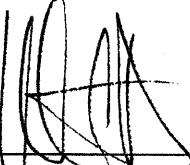
**PLEASE TAKE NOTICE THAT:**

1. Defendant Daniel Gonzalez ("Gonzalez"), incorrectly named as "Gonzales," hereby removes the above-captioned action to the United States District Court for the Northern District of New York. The bases for Federal Jurisdiction are 28 U.S.C. §§ 1331 and 1441(a) and (b);
2. Gonzalez was served on February 2, 2007 with a Summons with Notice, attached hereto as Exhibit A, filed in New York State Supreme Court, County of Tompkins on January 16, 2007 and assigned Index No. 07-0053. Cornell served a Demand for Complaint on February 21, 2007, attached hereto as Exhibit B, by regular mail on February 21, 2007. No other process, pleadings or court orders have been filed or served in this action to date.
3. Plaintiff's Summons with Notice alleges "damages for violation of 42 U.S.C. 1983 and 42 U.S.C. 1988" as the sole basis for his claim against Gonzalez. Because plaintiff's claims are explicitly and unequivocally based solely on 42 U.S.C. §§ 1983 and 1988, they must be construed as arising under the laws of the United States and hence the action is removable to this Court under 28 U.S.C. § 1441(b).
4. Defendant shall promptly file a copy of this Notice with the Clerk of the New York State Supreme Court, County of Tompkins.

**WHEREFORE**, defendant Daniel Gonzalez requests that this action proceed in this Court as an action properly removed thereto.

Dated: March 1, 2007

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NELSON E. ROTH (102486)  
VALERIE L. CROSS (505158)  
WENDY E. TARLOW (507736)  
NORMA W. SCHWAB (512215)  
Attorneys for Defendant  
Office and Post Office Address  
300 CCC Building, Garden Avenue  
Cornell University  
Ithaca, New York 14853  
(607) 255-5124

To: Richard M. Wallace, Esq.  
Guttman & Wallace  
Attorney for Plaintiff  
411 N. Tioga Street  
Ithaca, NY 14850

Edward E. Kopko, Esq.  
Wiggins, Kopko & Crane  
Attorney for Plaintiff  
308 North Tioga Street  
P.O. Box 399  
Ithaca, New York 14851-0399

## EXHIBIT A

RECEIVED/FILED  
CLERK

STATE OF NEW YORK

SUPREME COURT, COUNTY OF TOMPKINSIAN 16 PM 3:39

ANTHONY N. POTENZA,

Plaintiff

**SUMMONS WITH****NOTICE**

Index No. 07-005-3

RJI No.

-against-

DANIEL GONZALES,

Defendant.

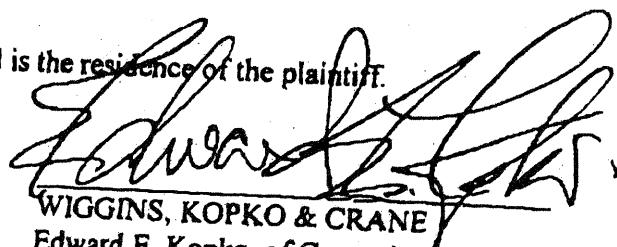
To the above-named Defendants:

You are hereby summoned to appear in this action by serving a notice of appearance on plaintiff's attorney within twenty days after the service of this summons, exclusive of the day of service, or within thirty days after service is complete if this summons is not personally delivered to you within the State of New York.

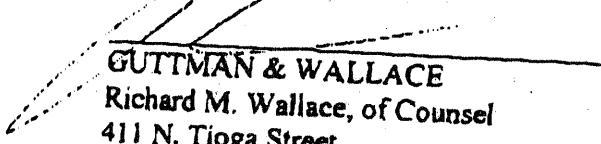
Take notice that the nature of this action and the relief sought is to recover damages for violation of 42 USC 1983 and 42 USC 1988, and that in case of your failure to appear judgment will be taken against you by default for a sum exceeding the jurisdiction of all lower courts, with interest from the 16th day of January, 2007, plus the costs and disbursements of this action.

The basis of the venue designated is the residence of the plaintiff.

Dated: January 16, 2007.



WIGGINS, KOPKO & CRANE  
Edward E. Kopko, of Counsel  
308 N. Tioga Street  
P.O. Box 399  
Ithaca, New York 14851-0399  
(607) 272-0479



GUTTMAN & WALLACE  
Richard M. Wallace, of Counsel  
411 N. Tioga Street  
Ithaca, New York 14850  
(607) 272-2102

## **EXHIBIT B**

STATE OF NEW YORK  
SUPREME COURT : TOMPKINS COUNTY

ANTHONY N. POTENZA,

**DEMAND FOR COMPLAINT**

Plaintiff,

v.

DANIEL GONZALES,

Index No. 07-0053

Defendant.

RJI No. \_\_\_\_\_

PLEASE TAKE NOTICE THAT, pursuant to New York Civil Practice Law and Rules § 3012(b), the defendant Daniel Gonzalez (incorrectly named herein as Daniel Gonzales) hereby demands that a copy of the complaint in this action be served upon the undersigned at the office and post office address stated below.

Dated: Ithaca, New York  
February 21, 2007

  
\_\_\_\_\_  
NELSON E. ROTH  
VALERIE L. CROSS  
WENDY E. TARLOW  
Attorneys for Defendant Daniel Gonzalez  
Office and Post Office Address  
Cornell University  
300 CCC Bldg., Garden Avenue  
Ithaca, New York 14853  
(607)255-5124

To: Edward E. Kopko, Esq.  
Wiggins, Kopko & Crane  
Attorney for Plaintiff  
308 North Tioga Street  
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Ithaca, New York 14851-0399

Richard M. Wallace, Esq.  
Guttman & Wallace  
411 North Tioga Street  
Ithaca, New York 14850

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of defendant Daniel Gonzalez's Notice of Removal have been served by mailing same U.S. mail postage prepaid on this 1<sup>st</sup> day of March, 2007, to the following:

Richard M. Wallace, Esq.  
Guttman & Wallace  
411 N. Tioga Street  
Ithaca, NY 14850

Edward E. Kopko, Esq.  
Wiggins, Kopko & Crane  
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Nelson E. Roth  
Bar Roll No. 102486